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Application No.: 10/705,472

Docket No.: NY-CERA 231.2-US (10314386)

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

It is respectfully submitted that the §101 rejection does not apply to the present pending claims.

Claims 12-17 were rejected under 35 U.S.C. §102(e) for allegedly being anticipated by Masada. Applicants respectfully traverse.

"uncoupled prosthesis" means that neither a friction-fit nor a form-fit connection exists between the two joint partners. With an uncoupled prosthesis, the hollow ball-shaped joint socket must not enclose the ball of the other joint partner beyond the equatorial plane. The two joint partners may thus be separated from one another in any position of the members, and therefore, of the components. In particular, for prostheses made of ceramic materials, it would otherwise not be possible to insert a ball into a socket bearing, since an opening smaller than the ball diameter the material, based on its properties, would fracture as the result of "snapping in" the ball. For metallic components, "snapping in" is possible to a certain extent without damaging the components.

In US Patent 6,454,808 by Masada, Figures 3, 9, 12A, 14, 27, and 29 clearly show coupled prostheses, since in each case the ball is enclosed beyond the equatorial plane. A further distinguishing feature with respect to the invention involves the grooves in the sliding surface of the hollow balls in which the stems, mounted on the balls as joint partners, engage, and which, therefore permit only very limited lateral motion. In this regard, reference is made to Figures 4 through 8 and 27 through 28B.

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A coupling is also produced by the slots in the hollow balls, which the shafts penetrate and which specify the motion of the components (see Figures 8 through 15C and 29, 30). These features, which limit lateral motion of the components, are not present in the claimed invention.

Since Masada discloses a coupled prostheses and not an uncoupled prosthesis, the rejection must be withdrawn.

The §103(a) rejection of claims 18-22 over the combination of Masada and Segmüller must also, therefore, be withdrawn.

Furthermore, the prosthesis of Segmüller is also clearly a coupled prosthesis. The hollow ball-shaped socket bearing encloses the ball supported therein beyond the equatorial plane, so that the ball must be flattened at positions 3a and 3b to permit insertion through the opening B into hollow ball 11, as illustrated in Figures 7 and 9 and described in column 6, lines 37 through 51. After insertion into the hollow ball, the joint partners may no longer be separated from one another in the natural range of motion.

The Examiner asserts that for the coupled prostheses of Masada it is obvious to one skilled in the art to replace the metallic components by components made of ceramic material. However, as discussed above, it is respectfully submitted that the ceramic might be destroyed upon insertion of the balls into the hollow balls when the two prosthesis components are joined.

In view of the foregoing, allowance is respectfully requested.

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Any fees due to enter this amendment or to maintain pendency of this application may be charged to deposit account no. 50-0624.

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Respectfully submitted,

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